

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

Reference to:

Date:

Employer Identification Number:

Key District:

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

The applicant is a corporation organized under the law of the state of [REDACTED]. It has requested exemption as a charitable organization under section 501(c)(3) of the code.

The activities of the applicant include the following items:

1. Capital contributions to various member credit unions. A significant portion of such contributions may be directed to credit unions serving poverty or low-income areas. The original Marketing Plan projects 23% of expenditures for this purpose.
2. Partner in progress.
3. The [REDACTED] for educating and training for small CUs (13%). This is directed to employees or volunteers of [REDACTED].
4. Subsidy of salary for evolving and growing credit unions (items 4 and 5 together = 22%).
5. Assistance to troubled credit unions.
6. New Services and Technology - 13%.
7. Marketing Programs - 9%.
8. Education and Training - 7%.

[REDACTED]

9. Other - 4%.

In April, 1996, the applicant approved two grants to defray the costs of employees of two [REDACTED] attending formalized training. Another grant was made to a [REDACTED] credit union toward marketing costs to be used to attract new members to the credit union. Another grant was made to a [REDACTED] credit union to pay \$500 toward the travel costs of its employee to attend a trade association executive development program. Similarly, another grant was made to a [REDACTED] credit union for purposes of employee training. In December, 1996, a [REDACTED] credit union received a grant to defray the costs associated with implementing and promoting a share-draft (checking) program.

The proposed expenditures during [REDACTED], as listed in the original marketing plan, include [REDACTED] for individual scholarships; [REDACTED] for checking support program, data processing equipment and marketing; [REDACTED] to implement credit card programs; and [REDACTED] for grants for attendance at national training programs. The proposed expenditures for [REDACTED] appear to be similar except that there is no grant to implement a credit card program and there appears to be additional funds for credit union employee training.

The narrative description of the proposed activities of the organization based on the letters dated [REDACTED] and [REDACTED], include the attempt "to mobilize human and financial resources to assist the poor or disadvantaged and to combat community deterioration by supporting and fostering credit unions that seek a 'low-income' or 'community development' designation from the National Credit Union Administration." You further assert that such low-income or community development credit unions (CDCUs) are credit unions that serve predominately members whose incomes are less than 80 percent of the average of all wage earners. The purpose of CDCUs is to provide basic financial and related services to residents in their communities and stimulate economic activity in the communities they serve which will result in increased income, ownership, employment opportunities, and other community growth effects.

The August letter suggests that the aid to CDCUs is directed to small and struggling credit unions which are described as being "usually located in communities with the most need." Again the letter describes the CDCUs as serving an area where the members are predominately low-income. Currently, [REDACTED] has no credit unions designated as CDCUs. However, it is anticipated that some may apply and qualify for such designation.

The applicant will assist such CDCUs and other small credit unions located in poverty areas. However, the loans made by such credit unions will rarely be made to businesses. The applicant has no interest in promoting the development of a specific business area or organization but concentrates its energy on support of credit unions and indirectly assisting credit union members as consumers.

Other areas of operation for the applicant include financial support for education and training of credit union employees and education of the public on credit union related matters and personal financial issues.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, scientific or educational purposes, provided no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization (a) limit the purposes of such organization to one or more exempt purposes and (b) do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities are not in furtherance of an exempt purpose.

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279, 283 (1945), the Court stated that "the presence of a single . . . [nonexempt] purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly . . . [exempt] purposes."

Section 1.501(c)(3)-1(c)(2) of the regulations provides that an organization will not be considered as operated exclusively for charitable purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in Code section 501(c)(3) in its generally accepted legal sense.

Rev. Rul. 71-504, 1971-2 C.B. 231, and Rev. Rul. 71-505, 1971-2 C.B. 232 stand for a similar principle. In each of those rulings an organization exempt under section 501(c)(6) directed its activities to the promotion common business purpose of its members. Each was a professional society; the former a medical society and the latter a city bar association. In each case the Service held that the organization failed to qualify for exemption under section 501(c)(3) of the Code because, while the organization conducted some charitable or educational activities, it also conducted a number of noncharitable activities that are directed at the promotion of the profession of its members and thus furthered the common business purpose of such members. Such activities were substantial in nature.

In Rev. Rul. 74-587, 1974-2 C.B. 162, the Service held that an organization qualified for exemption under section 501(c)(3) where the organization was engaged a program of low-cost or long-term loans to business enterprises in economically depressed areas for the purpose of relieving poverty, eliminating prejudice, reducing neighborhood tensions, and combating community deterioration in such economically depressed areas.

However, in Rev. Rul. 77-111, 1977-1 C.B. 144, the Service held that the promotion of business activity in economically deteriorated areas was not an activity that qualified the organization for exemption under section 501(c)(3) of the Code. In that Ruling, the organization attempted to increase business patronage in a deteriorated area by providing information on the area's shopping opportunities, local transportation, and accommodations. Another organization attempted to revive retail sales by constructing a shopping center. In each situation, the holding of this ruling is distinguished from the holding of Rev. Rul. 74-587 in that all businesses in the deteriorated area are being helped, not just those that are minority owned or those that are suffering adversity by virtue of being located in that area.

Some of your activities qualify as exempt activities. Education of the public regarding credit union issues such as credit union operation as well as personal financial issues and bankruptcy may qualify as exempt activities. Grants and assistance to employees of credit unions to further their education and training may qualify as an educational activity under the holding of Rev. Rul. 68-504, 1968-2 C.B. 211.

[REDACTED]

You have asserted that assisting certain small and struggling credit unions in certain areas including credit unions that may be classified as CDCUs is an exempt activity by aiding low income members of such credit unions and thus aiding the entire area, directly or indirectly.

However, even if you were able to establish that the assistance to certain small and struggling credit unions could qualify as exempt activities under the authority of Rev. Rul. 74-587 or under some other principle, you conduct other activities that are nonexempt in nature. Grants or assistance to certain credit unions in the nature of technology enhancements, marketing programs, and capital contributions and salary support is not an exempt activity. Further, those credit unions receiving such support are not a charitable class. The support of component members of a specific industry does not constitute the operation of a charitable activity. The credit unions are engaged in business and carry on business activity. Furthering the business goals of one or more of such organizations clearly is not a charitable activity no matter how much such organization may prove of benefit to the community.

If it is your assertion that you assist only small or struggling credit unions in deteriorated areas or credit unions qualifying as CDCUs, your assistance to such credit unions fails as a charitable activity for the reasons explained in Rev. Rul. 74-111. The following language from that Ruling is applicable in the instant case:

Although the organization's activities described in Situation 1 may contribute to the achievement of the purposes described in section 501(c)(3) of the Code, their overall thrust is to promote business rather than to accomplish exclusively 501(c)(3) objectives. Thus, the organization's activities lack the qualities of those that rendered the organization described in Rev. Rul. 74-587 exempt from Federal income tax under section 501(c)(3).

Those activities of your organization that are described above that relate to the promotion of business of certain credit unions is an activity of your organization that is substantial in nature. Under the holding of Better Business Bureau of Washington, D.C. and Revenue Rulings 71-504 and 71-505, cited above, the conduct of even a single nonexempt activity which is substantial in nature precludes tax exemption.

[REDACTED]

For the reasons stated above, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key district office. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

[REDACTED]

For your convenience, our FAX number is [REDACTED]

[REDACTED]

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Code	[REDACTED]	[REDACTED]				
Surname	[REDACTED]	[REDACTED]				
Date	[REDACTED]	[REDACTED]				

Form 1937-A (Rev. 1-1-64)

[REDACTED]